

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent &amp; Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court Northern District of CA on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. CV 09-00696 SBA	DATE FILED 02/17/2009	U.S. DISTRICT COURT U.S. District of Court, Northern District of CA
PLAINTIFF JUNIPER NETWORKS, INC		DEFENDANT PETER M. SHIPLEY
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,119,236		***PLEASE SEE COMPLAINT***
2 6,704,975		
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK  Richard W. Wicking	(BY) DEPUTY CLERK  Jessie Mosley	DATE  February 24, 2009
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Copy 1—Upon initiation of action, mail this copy to Commissioner    Copy 3—Upon termination of action, mail this copy to Commissioner  
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner    Copy 4—Case file copy

ORIGINAL

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9

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FEB 17 2009

Richard W. Wieking  
Clerk, U.S. District Court  
Northern District of California  
San Jose

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

SBA

12  
13 JUNIPER NETWORKS, INC., a  
Delaware corporation,

14 Plaintiff,

15 vs.

16 PETER M. SHIPLEY, an individual,  
17 Defendant.  
18

C09 00696

Case No. COMPLAINT FOR FALSE  
PATENT MARKING (35 U.S.C.  
§ 292)

DEMAND FOR JURY TRIAL

19  
20  
21 Plaintiff Juniper Networks, Inc. ("Juniper") alleges as follows:

22 STATEMENT OF THE CASE

23 1. This is a civil action for damages under 35 U.S.C. § 292, in which  
24 Plaintiff Juniper brings this action on behalf of the United States of America.  
25 Juniper also lays claim to fifty percent (50%) of the fine awarded pursuant to the  
26 above-mentioned statute.

27 ///

28 ///

1 **PARTIES**

2 2. Plaintiff Juniper is a corporation duly organized and existing under the  
3 laws of the State of Delaware, and has its principal place of business at 1194 N.  
4 Mathilda Avenue, Sunnyvale, California 94089.

5 3. On information and belief, Defendant Peter M. Shipley is an individual  
6 residing at 2341 Spaulding Avenue, Berkeley, California 94703.

7 **JURISDICTION**

8 4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and  
9 1338(a) in that this is a civil action arising out of the patent laws of the United States  
10 of America, specifically 35 U.S.C. § 292.

11 5. This Court has personal jurisdiction over the Defendant because he  
12 resides in the State of California.

13 **VENUE**

14 6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and  
15 1400(b) because Mr. Shipley's violations of 35 U.S.C. § 292 originate from and  
16 have occurred in part in the Northern District of California, and because Mr. Shipley  
17 is domiciled in this District.

18 **INTRADISTRICT ASSIGNMENT**

19 7. Pursuant to Civil Local Rule 3-2(c), because this action is an  
20 intellectual property action, it is properly assigned to any of the divisions in this  
21 district.

22 **GENERAL ALLEGATIONS**

23 8. Juniper is a leading designer, developer, manufacturer, and seller of  
24 computer networking products. Juniper's products include, among other things, a  
25 variety of firewall products.

26 9. On information and belief, Mr. Shipley is a self-proclaimed computer  
27 "hacker." Mr. Shipley promotes his "hacking" abilities and related projects and  
28 ///

1 products on a website he maintains at the URL <http://www.dis.org> (the  
2 "Website").

3 10. Mr. Shipley started maintaining the Website no later than 1995. At that  
4 time, he had a network environment in his home that was connected to the Internet,  
5 which he used to support the Website.

6 11. Mr. Shipley's Website was a continuous target for attack from others in  
7 the hacker community. Accordingly, on information and belief, Mr. Shipley sought  
8 an approach that would stop or deter hacker attacks on the Website.

9 12. In 1995 and 1996, Mr. Shipley claims to have conceived and developed  
10 a technology known as a "Dynamic Firewall." This technology was allegedly  
11 claimed as an invention in a series of patent applications filed on behalf of Mr.  
12 Shipley before the United States Patent and Trademark Office ("PTO").

13 13. Mr. Shipley used his Dynamic Firewall in connection with the Website.  
14 The Dynamic Firewall was allegedly operational and secured in Mr. Shipley's home  
15 beginning in 1996.

16 14. On or before December 10, 1997, Mr. Shipley caused the following  
17 marking to be displayed on the Website with the Dynamic Firewall:

18 **Dynamic Firewall [Dover, Cyber] \*\*\* Patent Pending \*\*\***

19 "Shields holding captain..."

20 "D.I.P.S.H.I.T" Dynamic IP SHield Technology A selfmodifying active  
21 firewall/packet filter designed to act as a LAN auto-defense and offense  
22 monitor/tool. This is a idea I came up with a few years ago.

23 **Status:** basic log file monitoring funtioning, now implementing core  
24 rulesets

25 15. In 1999, a hard drive crash in a computer in Mr. Shipley's home  
26 allegedly resulted in the destruction of the Dynamic Firewall. After this hard drive  
27 crash, Mr. Shipley's Dynamic Firewall was no longer operational or functioning on  
28 the Website, and Mr. Shipley made no successful attempt to restore or recreate the  
Dynamic Firewall that had been functioning previously on the Website.

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1 16. On information and belief, Mr. Shipley did not remove the "Patent  
2 Pending" marking on the Website following the destruction of the Dynamic Firewall  
3 in 1999, even though no embodiment of the alleged invention by Mr. Shipley was  
4 operational on the Website at that time.

5 17. On September 12, 2000, U.S. Patent Nos. 6,119,236 was issued to Mr.  
6 Shipley as a result of the patent applications filed on his behalf before the PTO.

7 18. On or before December 3, 2000, Mr. Shipley intentionally altered the  
8 language of the marking on the Website as follows:

9 **Dynamic Firewall [Dover] \*\*\* Patent # 6,119,236 \*\*\***

10 "Shields holding captain..."

11 "D.I.P.S.H.I.T." Dynamic IP Shield Technology A selfmodifying active  
12 firewall/packet filter designed to act as a LAN auto-defense and offense  
13 monitor/tool. This is a idea I came up with a few years ago.

14 **Status:** functioning...

15 19. Mr. Shipley's altered marking falsely indicated that the Dynamic  
16 Firewall allegedly covered by U.S. Pat. No. 6,119,236 was still "functioning" on the  
17 Website.

18 20. On information and belief, at the time Mr. Shipley made this alteration  
19 to the Website language, he knew that language to be false, and that no Dynamic  
20 Firewall allegedly covered by U.S. Pat. No. 6,119,236 was in fact "functioning" on  
21 the Website.

22 21. On October 16, 2001, U.S. Patent No. 6,304,975 was issued to Mr.  
23 Shipley as a result of the patent applications filed on his behalf before the PTO.

24 22. On or before October 29, 2001, Mr. Shipley intentionally altered the  
25 language of the marking on the Website as follows:

26 **Dynamic Firewall [Dover] \*\*\* Patent # 6,119,236 and 6,304,975 \*\*\***

27 "Shields holding captain..."

28 "D.I.P.S.H.I.T." Dynamic IP Shield Technology A selfmodifying active  
firewall/packet filter designed to act as a LAN auto-defense and offense  
monitor/tool. This is a idea I came up with a few years ago.

1           **Status:** functioning...

2           23. Mr Shipley's altered marking falsely indicated that the Dynamic  
3 Firewall allegedly covered by U.S. Pat. Nos. 6,119,236 and 6,304,975 was still  
4 "functioning" on the Website.

5           24. On information and belief, at the time Mr. Shipley made this alteration  
6 to the Website language, he knew that language to be false, and that no Dynamic  
7 Firewall allegedly covered by U.S. Pat. No. 6,119,236 and 6,304,975 was in fact  
8 "functioning" on the Website.

9           25. As of February 11, 2009, the Website continues to bear a marking  
10 indicating that the Dynamic Firewall allegedly covered by U.S. Pat. Nos. 6,119,236  
11 and 6,304,975 is still "functioning" on the Website.

12           26. On information and belief, the Dynamic Firewall is not currently  
13 operating or functioning on the Website.

14           27. No embodiment of U.S. Pat. Nos. 6,119,236 and 6,304,975 created by  
15 Mr. Shipley has been in existence since the hard drive containing the Dynamic  
16 Firewall crashed in 1999.

17                           **CAUSE OF ACTION**

18                           **(False Marking under 35 U.S.C. § 292)**

19           28. Juniper restates, realleges and incorporates by reference the allegations  
20 contained in paragraphs 1 through 27 of this Complaint as if fully set forth herein.

21           29. Mr. Shipley has, in connection with the Website, marked upon, affixed  
22 to, or used in advertising, both in the past and presently, the words "Patent  
23 Pending," "Patent # 6,119,236," "Patent # 6,119,236 and 6,304,975" and other  
24 words or numbers importing that a product or service functioning on the Website  
25 was and is patented.

26           30. The Website and any firewall or other security products or services  
27 operating thereon are unpatented articles with respect to U.S. Pat. Nos. 6,119,236  
28 and 6,304,975, and have been since 1999.

1 31. Mr. Shipley has known since 1999 that the Website and any firewall or  
2 other security products or services operating thereon are unpatented articles with  
3 respect to U.S. Pat. Nos. 6,119,236 and 6,304,975, and have been since 1999.

4 32. Upon information and belief, Mr. Shipley made and continues to make  
5 these false markings on the Website for the purpose of deceiving the public.

6 33. Mr. Shipley's false marking is published each time the portion of the  
7 Website bearing the marking is accessed by a user. Pursuant to 35 U.S.C. § 292(a),  
8 Defendant is liable for up to a \$500 fine for each such instance of false marking,  
9 including each time the false marking on the Website was or is transmitted for  
10 display by a web browser. On information and belief, the false marking has been  
11 published multiple times every day since 1999, resulting in a total fine of millions of  
12 dollars or more. The actual amount of the fine attributable to Defendant's false  
13 marking will be developed during discovery and proven at trial.

14  
15 PRAYER FOR RELIEF

16 WHEREFORE, Juniper prays for judgment as follows:

17 A. For an award of damages of \$500 for every false marking offense by  
18 Mr. Shipley (including each time the false marking on the Website has been  
19 transmitted for display by a web browser), with one-half of this damages award to  
20 Juniper and the other half to the United States;

21 B. For an injunction restraining and enjoining Mr. Shipley, his agents, servants,  
22 employees, officers and those persons acting in concert or participating with Mr.  
23 Shipley, from all false marking activity including publication of false markings  
24 contained on the Website;

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1 C. For such other and further relief as this Court deems just and proper.

2 Dated: February 17, 2009

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22 Attorneys for Plaintiff  
23 JUNIPER NETWORKS, INC.  
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1 **DEMAND FOR JURY TRIAL**

2 Juniper Networks, Inc. hereby demands a trial by jury on all issues triable to a  
3 jury as a matter of right.  
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5 Dated: February 17, 2009

IRELL & MANELLA LLP

6  
7 By: 

8 Jonathan S. Kagan  
9 Attorneys for Plaintiff  
10 Juniper Networks, Inc.  
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